

(7) A certification by the third party requester that the estoppel provisions of § 1.907 do not prohibit the *inter partes* reexamination.

(8) A statement identifying the real party in interest to the extent necessary for a subsequent person filing an *inter partes* reexamination request to determine whether that person is a privy.

(c) If an *inter partes* request is filed by an attorney or agent identifying another party on whose behalf the request is being filed, the attorney or agent must have a power of attorney from that party or be acting in a representative capacity pursuant to § 1.34.

(d) If the *inter partes* request does not include the fee for requesting *inter partes* reexamination required by paragraph (a) of this section and meet all the requirements of paragraph (b) of this section, then the person identified as requesting *inter partes* reexamination will be so notified and will generally be given an opportunity to complete the request within a specified time. Failure to comply with the notice will result in the *inter partes* reexamination request not being granted a filing date, and will result in placement of the request in the patent file as a citation if it complies with the requirements of § 1.501.

[65 FR 76777, Dec. 7, 2000, as amended at 71 FR 9262, Feb. 23, 2006; 71 FR 44223, Aug. 4, 2006; 72 FR 18906, Apr. 16, 2007; 76 FR 59058, Sept. 23, 2011]

§ 1.919 Filing date of request for *inter partes* reexamination.

(a) The filing date of a request for *inter partes* reexamination is the date on which the request satisfies all the requirements for the request set forth in § 1.915.

(b) If the request is not granted a filing date, the request will be placed in the patent file as a citation of prior art if it complies with the requirements of § 1.501.

[65 FR 76777, Dec. 7, 2000, as amended at 71 FR 9262, Feb. 23, 2006]

§ 1.923 Examiner's determination on the request for *inter partes* reexamination.

Within three months following the filing date of a request for *inter partes*

reexamination under § 1.915, the examiner will consider the request and determine whether or not the request and the prior art establish a reasonable likelihood that the requester will prevail with respect to at least one of the claims challenged in the request. The examiner's determination will be based on the claims in effect at the time of the determination, will become a part of the official file of the patent, and will be mailed to the patent owner at the address as provided for in § 1.33(c) and to the third party requester. If the examiner determines that the request has not established a reasonable likelihood that the requester will prevail with respect to at least one of the challenged claims, the examiner shall refuse the request and shall not order *inter partes* reexamination.

[76 FR 59058, Sept. 23, 2011]

§ 1.925 Partial refund if request for *inter partes* reexamination is not ordered.

Where *inter partes* reexamination is not ordered, a refund of a portion of the fee for requesting *inter partes* reexamination will be made to the requester in accordance with § 1.26(c).

§ 1.927 Petition to review refusal to order *inter partes* reexamination.

The third party requester may seek review by a petition to the Director under § 1.181 within one month of the mailing date of the examiner's determination refusing to order *inter partes* reexamination. Any such petition must comply with § 1.181(b). If no petition is timely filed or if the decision on petition affirms that a reasonable likelihood that the requester will prevail with respect to at least one of the claims challenged in the request has not been established, the determination shall be final and nonappealable.

[76 FR 59058, Sept. 23, 2011]

Inter Partes REEXAMINATION OF PATENTS

§ 1.931 Order for *inter partes* reexamination.

(a) If it is found that there is a reasonable likelihood that the requester will prevail with respect to at least one of the claims challenged in the request, the determination will include an order